
CHESAPEAKE BAY
LOCAL ASSISTANCE DEPARTMENT

The Chesapeake Bay Preservation Act and Shoreline Management

VIMS Tidal Wetlands Education Program

July 18, 2001

Topics

1. Overview of the Bay Act
2. Effects of Shoreline Management on the RPA Buffer
3. CBPA Regulations & Shoreline Management
4. CBLAD Guidance on Shoreline Management

1. Overview: the Chesapeake Bay Preservation Act

- Establish a cooperative program between State and Local governments aimed at reducing nonpoint source pollution.
- Designed to improve water quality in the Chesapeake Bay and its tributaries by requiring wise resource management practices in the use and development of environmentally sensitive lands.

Statutory Authority

- 1988 Chesapeake Bay Preservation Act.
- 1989 Chesapeake Bay Preservation Area Designation and Management Regulations.

Local Programs in Virginia

- 84 Counties, Cities and Towns in Tidewater adopt Bay Act Programs
- CBLAD provides technical and financial assistance to help develop and implement the local programs

Phase I

- Designate and map Chesapeake Bay Preservation Areas (CBPAs).
- Implement performance criteria within CBPAs.

Phase II

- Amend local comprehensive plans to incorporate water quality protection measures consistent with the Bay Act and Regulations

Phase III

- Evaluate and revise, where necessary, local development standards to protect water quality consistent with the Bay Act and Regulations

Implementation Review

- CBLAD review of local Bay Act program implementation

CBPAs = RPAs & RMAs

- Resource Protection Areas (RPAs):
  - ✓ Tidal wetlands
  - ✓ Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or tributary streams
  - ✓ Tidal shores
  - ✓ Other lands
  - ✓ A buffer of not less than 100 feet in width landward of these features and along both sides of any tributary stream

(Lands at or near the shoreline that have an intrinsic water quality value.)

CBPAs = RPAs & RMAs

- Resource Management Areas (RMAs):
  - ✓ Floodplains
  - ✓ Highly erodible soils, including steep slopes
  - ✓ Highly permeable soils
  - ✓ Nontidal wetlands not included in RPAs
  - ✓ Other lands

(Lands that if improperly used or developed have potential for causing water quality degradation or for diminishing the functional value of the RPA.)

2. Effects of Shoreline Management on the RPA Buffer

Tidal Wetlands & Forested Buffer

RPA Buffer

- A 100-foot vegetated buffer area shall be retained if present and established where it does not exist.

- Purpose: To minimize the adverse effects of human activities on the other components of the Resource Protection Area, State waters, and aquatic life.

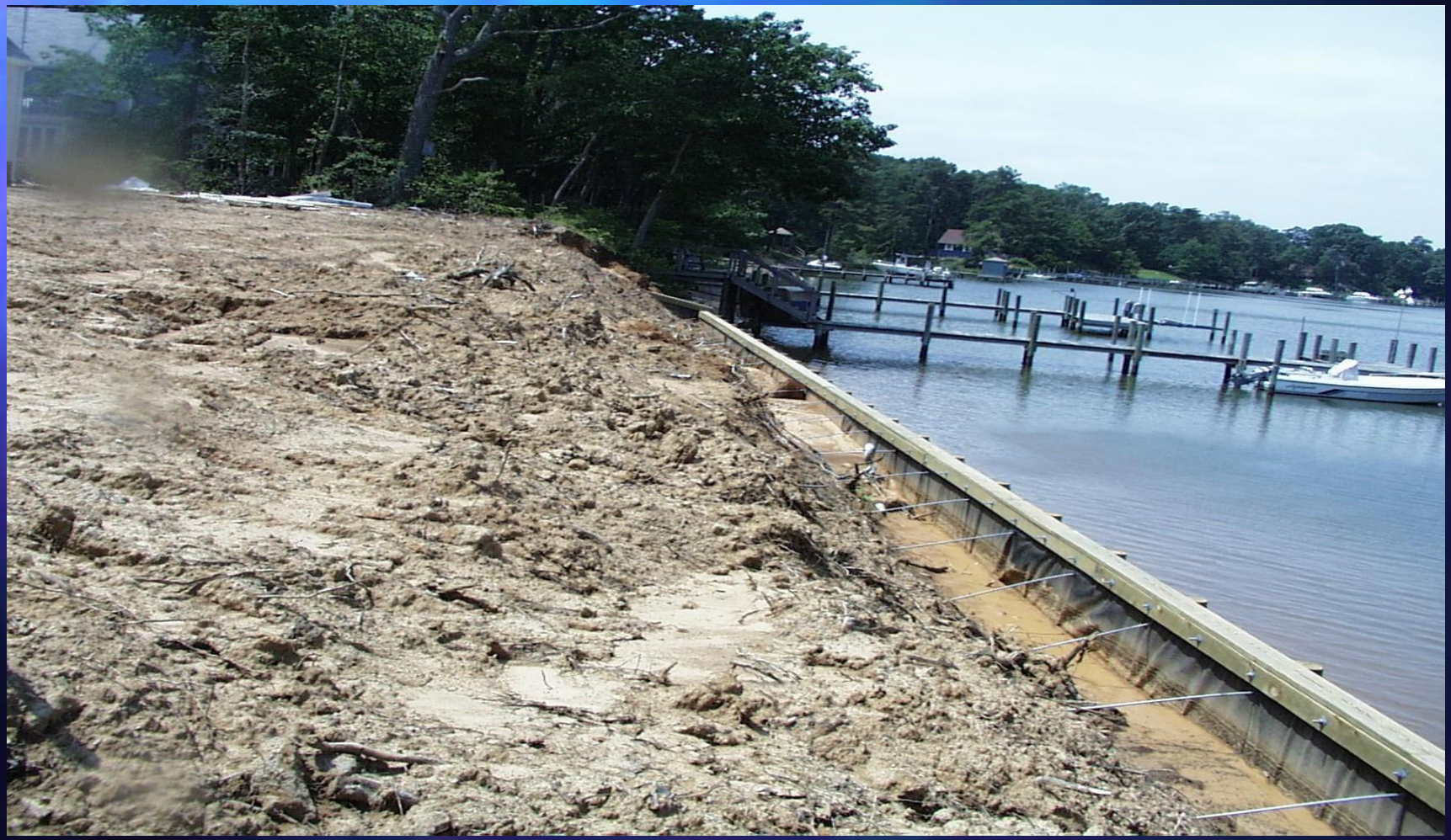
Forested Buffer

Shoreline Management Issues

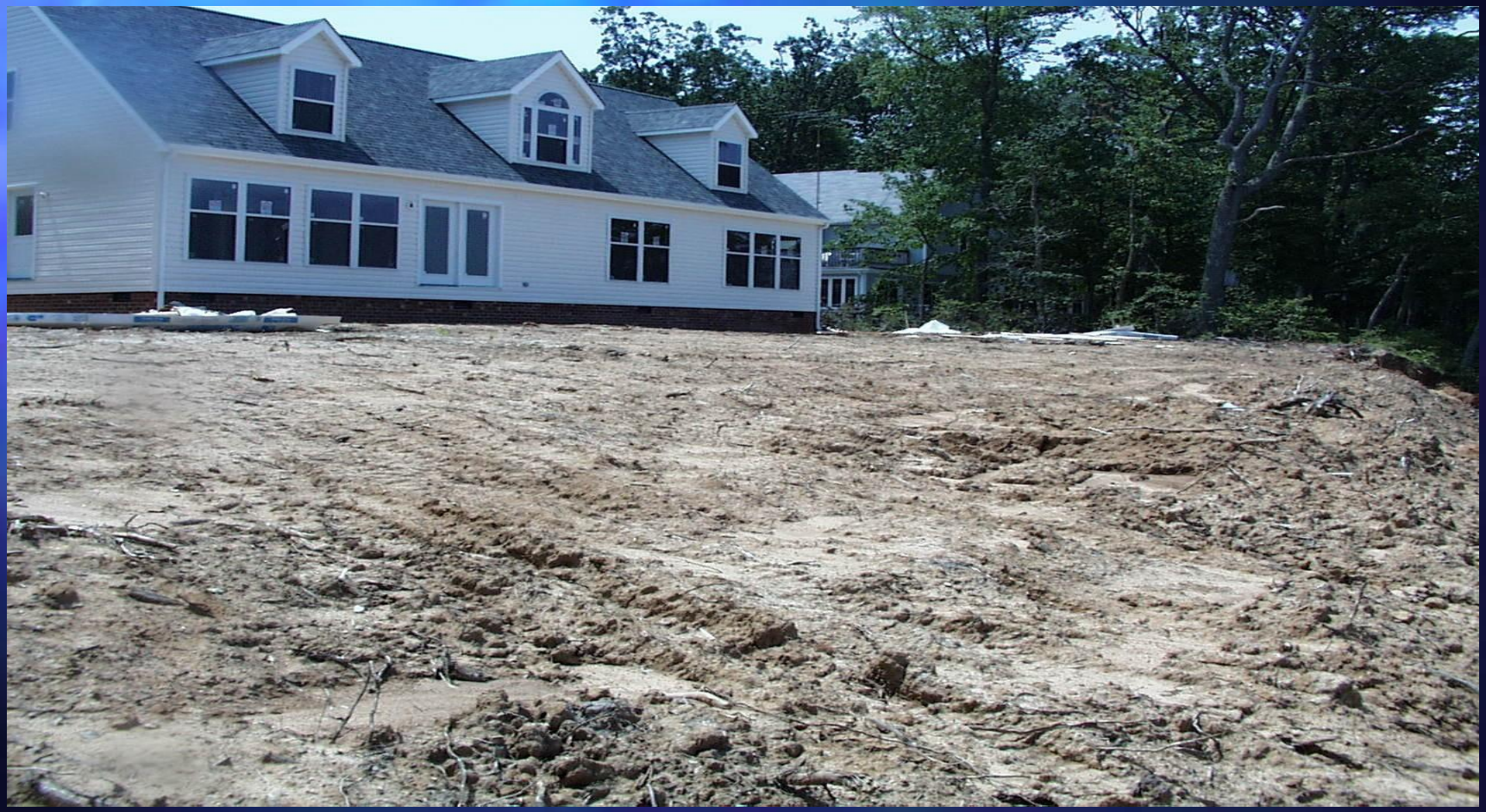
- Nonstructural shoreline management techniques are not adequately considered
- Buffers have been unnecessarily cleared in the name of shoreline protection
- Buffers have not been properly restored after shoreline management is completed
- Wetlands have been filled to increase buffer widths

Disturbed Buffer

Buffer cleared for Shoreline Management



Buffer Cleared for Shoreline Management



Environmental Impacts

- Impacts to the RPA buffer which reduce its effectiveness in protecting water quality
- Degraded water quality due to construction activities and reflected wave energy
- Loss of shoreline habitat, adjacent wetlands and SAV resources

Effects on Property Owners

- Higher costs for shoreline stabilization
  - Construction
  - Buffer Restoration
- Additional time required for permitting
- Potential increased erosion on nearby properties

CBLAD Responses

- Presentation to VMRC
- Wetlands Symposium Presentation
- Buffer Guidance Project (Input from Localities,VMRC, DCR, VIMS, DOF, etc.)
- Outreach Efforts
  - Publications
  - Training

3. CBPA Regulations & Shoreline Management

- Water Dependent Facilities
- General Performance Criteria
- Buffer Modification Criteria
- Water Quality Impact Assessments

Permitted Uses in the RPA

- Two types of development are permitted in the RPA:

1. water dependent uses,

2. re-development.

Water Dependent Facilities

- Definition: "*development of land that cannot exist outside of the RPA and must be located on the shoreline by reason of the intrinsic nature of its operation*"

Water Dependent Facility Examples

- Ports
- Intake and Outfall Structures
- Marinas
- Boat docking structures
- Shoreline management structures (bulkheads, revetments, etc.)

New or expanded water dependent facilities allowed provided that:

- Non-water-dependent components are located outside the RPA
- Facilities comply with the General Performance Criteria of the Regulations

General Performance Criteria

1. *No more land shall be disturbed than is necessary to provide for the desired use or development.*

2. *Indigenous vegetation shall be preserved to the maximum extent possible.*

Buffer Modification Criteria

- Trees may be pruned or removed to provide for sight lines and vistas – must be replaced with other vegetation that is equally effective.
- Paths shall be constructed and surfaced to control erosion.
- Dead, diseased, or dying trees may be removed.
- Trees and vegetation may be removed for shoreline erosion control projects.

Shoreline Management

- D. *"For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements." (9VAC10-20-130.B.1.d)*

Water Quality Impact Assessments

- *"A water quality impact assessment shall be required for any proposed development within the Resource Protection Area"* (9VAC10-20-210.E)

WQIAs

- Identify impacts of proposed development to water quality and other RPA lands
- Determine specific measures for mitigation of those impacts
- Specific content and procedures for WQIAs to be determined by localities

4. CBLAD Guidance on Shoreline Management

CBLAD Guidance

- Shoreline management is an allowable use in the RPA because it is water dependent (the Bay Act does not restrict property owner's ability to protect their property from shoreline erosion)

CBLAD Guidance

- The type of shoreline protection will determine the level of impact to the RPA buffer, water quality and adjacent shallow water habitats

CBLAD Guidance

- To minimize the impacts of shoreline management, the least intrusive means of stabilization should be used consistent with best available technical advice

CBLAD Guidance

- Stabilizing some shorelines will require clearing and grading in the 100-foot RPA buffer
- Any modification to the buffer should be the minimum necessary to achieve the desired shoreline management objective

CBLAD Guidance

- Modifications to buffer vegetation for shoreline stabilization are allowed, but not exempt from the provisions of the CBPA Regulations.

CBLAD Guidance

- Precautions must be taken to avoid water quality impacts during construction, and
- Any disturbed areas in the buffer must be revegetated to restore all previous water quality protection functions.

CBLAD Guidance

- The buffer functions to protect adjacent wetlands as well as water quality in general
- Wetlands should not be filled in order to provide an adequate buffer

CBLAD Guidance

- Localities need to have a mechanism for considering buffer modification proposals and a means to assure appropriate mitigation.
- Existing Bay Act requirements for Water Quality Impact Assessments (WQIAs) should be used by localities to review stabilization proposals

Buffer Guidance Project

- Workgroup of local and state officials

- Develop Guidance on:
  - Administrative procedures for managing buffer modifications
  - Technical aspects of buffer restoration

- www.cblad.state.va.us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